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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/988,292 12/10/97 THEEUWES

F ARC-2600-R1

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QM32/0125

EXAMINER

RODRIGUEZ, C

ART UNIT

PAPER NUMBER

3763

DATE MAILED:

01/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.
08/988,292

Applicant(s)

Theeuwes et al

Examiner
CRIS L. RODRIGUEZ

Group Art Unit
3763



☒ Responsive to communication(s) filed on Nov 16, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-8, 10-21, and 23-30 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 23-27 and 30 is/are allowed.

☒ Claim(s) 1-8, 10-21, 28, and 29 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-8, 10-21, 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 18 are indefinite because it is not clear what "body surface" is applicant referring to in line 8: the skin body surface, the body surface of the proximal or distal side.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 10, 11, 14, 15, 18-20, 28 and 29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lerner et al(2,922,425).

Lerner et al discloses an applicator or dispensing device comprising, see figure 4, a member 12, a plurality of protrusions 14 extending from the first surface, and a connecting medium 16.

4. Claims 1, 8, 10, 11, 18-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kellet et al(5,261,426).

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Kellet et al discloses an applicator comprising a member 6, a plurality of protrusions 5 extending from the first surface, and a connecting medium 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner et al in view of Gerstel et al(3,964,482).

Lerner et al discloses an applicator or dispensing device comprising the elements substantially as claimed. However, Lerner et al does not disclose the protrusion comprising blades.

Gerstel et al teaches a drug delivery device having puncturing protrusions(col 7 lines 32-37) for the piercing the skin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lerner et al by providing the puncturing protrusion as shown by Gerstel et al in order to introduce an agent to a body surface.

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Allowable Subject Matter

7. Claims 6, 7, 13, 16 and 17 are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
8. Claims 23-27 and 30 are allowable over the prior art of record.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

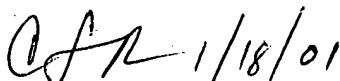
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kellet et al('541 and 075), Abercrobie, Larsky et al, and Weissberger all disclose devices analogous to that as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cris L. Rodriguez whose telephone number is (703) 308-2194. The examiner can normally be reached on M-F from 7:30am to 4:00pm.

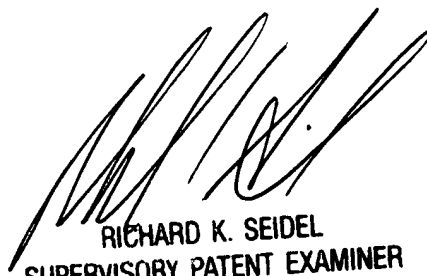
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If attempts to reach the examiner by telephone are unsuccessful, Richard Seidel can be reached on (703) 308-5115. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


Cris L. Rodriguez

January 18, 2001


RICHARD K. SEIDEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700